



Frequently Asked Questions

Originally prepared for the Informational Meeting for School Leaders on 5/16/11

This FAQ document was prepared in response to the many questions the Indiana Department of Education (IDOE) has received regarding this year's new legislation. We are entering a new era in educating students. In fact, much of past practice is gone (or reset), so it is incumbent upon all of us to be thoughtful and deliberate in establishing a new precedent for future school leaders. The hard work we put in now will have strong implications for students for years to come.

There will certainly be more questions in the weeks and months ahead. **This FAQ document will be continually updated as we compile more questions from school leaders and educators.*** School corporations can expect additional guidance and support as more details are solidified.

Let's take advantage of this real opportunity – to not only clean up outdated or bad policies and contract language – but to launch our schools and our state into a new world where the needs of students are truly prioritized above all else!

Collective bargaining/contracts (SEA 575)

1. What if my contract was settled before July 1, 2011? Does the deficit financing provision apply?

***If your contract was/is settled after April 21, 2011, the contract cannot include language regarding teacher evaluations and cannot exceed the length of a budget biennium. See #8 re: deficit financing.**

2. What if I have a salary reopener in my contract?

If the salary provision of the contract (or any provision of the contract) is reopened after July 1, 2011, the contract must become compliant with the new law.

3. What if my contract is not settled by July 1, 2011?

***In the short term, the salary and wage related fringe benefits may carry forward for the 2011-2012 school year. Teachers may receive their regular increments. To have the compensation piece in your new contract, your**

* Denotes answers that have been revised since the last version.

corporation must develop a performance based compensation system compliant with the new law (SEA 1) prior to December 31, 2011. Given the tight timeline, IDOE anticipates publishing a model salary schedule well in advance of the January 31, 2012 statutory deadline.

4. What do I pay my teachers if I do not settle before July 1, 2011?

***You may pay your teachers the regular increment as prescribed in your current contract (see #3). Teachers may receive their regular increment as long as doing so does not result in deficit financing.**

5. Can teachers paid with stimulus funding be hired on supplemental contracts?

Yes.

6. What is the length of a contract for settlements that occur before July 1, 2011 and do not include prohibited language?

***The length of the contract as agreed upon by both parties, but a contract settled after April 21, 2011 cannot extend beyond June 30, 2013.**

7. Can school administrators meet with teachers to discuss any issue and not be accused of bypassing the union?

***Nothing prohibits administrators from having information gathering meetings. Mandatory discussion items are included in SEA 575, as are provisions related to numbers of union teachers required to be on any committee other than the bargaining committee.**

8. How does deficit financing language apply to districts that have contract settlements that extend beyond July 1, 2011?

***If your corporation settles before July 1, 2011, the deficit financing language isn't applicable in a mandatory sense (although may be an advisable practice) until the next contract negotiation. The deficit financing language would be applicable to any contract settled after that date.**

9. Can a collective bargaining agreement include grievance language?

***There is actually a conflict in statute. Section 5 says a contract may contain a grievance procedure, but 4.5(a)(5) says a contract cannot contain anything not expressly listed in section 4.**

One thing is for certain – a contract cannot contain language regarding binding arbitration.

10. How does cash balance impact contract settlements? Can cash balance be used for settlement? Can the mediator and fact finder consider cash balance when determining deficit financing?

Cash balance can be used before it gets to mediation and fact finding. Once it gets to mediation and fact finding, the fact finder will only look at general fund revenue.

11. What happens to old IEERB rulings?

Past IEERB rulings do not apply unless they directly apply to those issues that can be bargained under the new law. IEERB rulings regarding the provisions of the discussion process still intact under SEA 575 remain in effect.

Note: IEERB and court rulings regarding the appointment of bargaining unit members to school/school corporation committees are superseded by the provision in SEA 575 limiting the right of the exclusive representative to appoint members to committees only in proportion to the exclusive representative's membership proportion of the number of employees eligible to be in the bargaining unit (see #23).

12. Will IDOE review contracts for school districts?

IDOE is responsible for reporting non-compliance of the compensation system to the State Board of Education.

13. Can cash balance and rainy day funds be used in the last best offer?

No. Only general fund revenue is considered in the last best offer.

14. How do districts set days and hours?

***Hours are now discussable. Days are set by the administration. However, an administration who increases the number of days teachers are expected to work should expect the bargaining unit to try to negotiate higher wages.**

15. How should districts enter days and hours on the standard teachers contract?

IDOE will be updating the format of the standard teachers contract to provide spaces for days and hours as well as exceptions (e.g. weather delays, make-up days).

16. How do unfunded liabilities, such as early retirement buy-outs that were not fully funded, impact the deficit financing provision?

Any unfunded liability would be considered as part of the negotiation.

17. Can the fact finder calculate the last best offer line by line or is it the total package?

Total package.

18. Can the fact finder mediate?

Yes, though not formally. The fact finder may facilitate informal conversations between the parties.

19. Can binding fact-finding be appealed to court?

Yes, but SEA 575 provides that the first appeal is to IEERB.

20. Does the law prohibit informal bargaining before the bargaining timeline?

No, as long as it happens before August 1 and is conducted with the authorized agent(s) of the exclusive representative.

21. What happens to old contract language once the new contract is ratified?

It's gone, except for language relating to salary and wage-related fringe benefits.

22. What happens to the accumulation of leave days and the daily reimbursement?

This is locally bargained.

23. Did any legislation affect School Improvement Plans? Are School Improvement Plans required?

Yes. Specifically, IC 20-29-5-7 states –the percentage of teacher positions the exclusive representative may appoint to serve on a statutory or locally created school wide committee may not exceed the percentage of teachers in the school who are members of the exclusive representative.]] This includes School Improvement Plan committees.

School Improvement Plans are required under IC 20-31-5-1 and 511 IAC 6.2-3-1. Submission of a School Improvement Plan is one of the eleven legal standards for accreditation.

24. If I do not settle my contract, does that mean I cannot give raises for 2 years?

See #3.

25. Our current contract is only good through the 2008-09 school year. Since we can only bargain the biennium, does that mean that 2009-10 and 2010-11 are gone?

No. SEA 575 provides that contracts cannot go beyond (later than) the current state budget biennium.

26. Do you know if IC 20-35-5-11 will still be in effect after this legislative session? This law also keeps school corporations from being able to place the best teachers in open positions. As school corporations move away from expensive special education cooperatives and vocational schools, this law is a major issue.

Yes, IC 20-35-5-11 is still in effect. But under IC 20-35-5-11, teachers who are RIFed by a special education cooperative have recall rights within all of the cooperative's member school corporations. As a result, the pool of available

recall opportunities is broader for a cooperative teacher than a teacher who is employed by a single school corporation.

27. How will pay for unused sick days be negotiated now?

Salary and wage related fringe benefits remain bargainable at the local level.

28. Will current contracts, including those that have been extended beyond a biennium, automatically expire at the end of the new biennium? And will that be June 30 or December 31 of 2013?

If the contract was settled between April 21, 2011 and July 1, 2011, the contract cannot exceed the length of the budget biennium. The end of the new biennium is June 30, 2013.

29. Will current contracts, including those that have been extended through the new biennium, take precedence over the latest legislation on teacher evaluation, compensation, salary determination, and collective bargaining through the end of the new biennium? Or will new legislation trump current contracts, even if extended?

See #1. Although the new legislation cannot trump current contracts, corporations should note that, under IC 20-28-11.5, "a school corporation must submit its staff performance evaluation plan to the department for approval in order to qualify for any grant funding related to this chapter." For many, if not most, corporations, this grant funding may represent the only new dollars available. Evaluation is also a legal standard for accreditation.

30. Is performance pay outside the revenue that can be considered by the fact finder?

Only general fund revenue is considered by the fact finder.

31. When does the new biennium begin and end?

The new biennium begins July 1, 2011 and ends June 30, 2013. Note that the biennium consists of two state fiscal years: July 1, 2011 to June 30, 2012 and July 1, 2012 to June 30, 2013.

32. Can a district grant a bonus to employees outside of the collective bargaining agreement?
Can this be authorized by board policy?

Not if the bonus is a salary or wage-related fringe benefit.

33. How will the annual health insurance renewal impact collective bargaining since some of the renewal dates are outside the time when bargaining occurs? How does insurance premiums affect deficit financing?

The renewal dates may need to be made to conform to the collective bargaining timeline. The prohibition against deficit financing applies to the cost of the insurance programs.

Teacher evaluations/compensation plans (SEA I)

34. Does legislation state that no teacher will make less than he/she earned in 2010-11?

The statute says that a salary cannot be decreased solely because of this legislation. Specifically, IC 20-28-9-1 states that the legislation “may not be construed to require or allow a school corporation to decrease the salary of any teacher below the salary the teacher was earning on or before July 1, 2012, if that decrease would be made solely to conform to the new salary scale.”

35. How is leadership defined when calculating performance pay?

As part of the development of the compensation model, IDOE will be providing guidance around the definition of leadership.

36. How are wages determined for extra-curricular salary schedules?

Wages for extra-curricular duties are locally bargained.

37. What constitutes base pay in the current year and in the following year?

Base pay is locally bargained, though it cannot be decreased from what the teacher was earning on or before July 1, 2012 (see #34), if the decrease is made solely to conform to the new salary scale language.

38. What is the process for removing an established teacher for performance?

A contract with an established teacher may be cancelled if the teacher receives two consecutive ineffective ratings or if the teacher receives an ineffective or improvement necessary rating in three (3) years of any five (5) year period.

39. Does performance pay become a part of the base salary?

IDOE will provide guidance on this question as part of the compensation model.

40. Are supplemental contracts linked to the salary schedule?

***Not necessarily; the superintendent may, but it not required to, base the salary for a supplemental contract on the regular salary scale. IC 20-28-6-7 expressly allows the superintendent to set the salary for supplemental contracts.**

41. How is teacher defined? Does the definition include psychologists, nurses, and other classes that were previously classified as a teacher? If they are not included how are wages and benefits determined?

IC 20-18-2-22 defines teacher as “a professional person whose position in a school corporation requires certain educational preparation and licensing and whose primary responsibility is the instruction of students.” The term includes: (1) a superintendent, (2) a principal, (3) a teacher, and (4) a librarian. Wages and benefits are locally bargained.

42. What is the benefit of waiting until after July 1, 2011 to hire new teachers?

None. Teachers do not become “established” until July 1, 2012.

43. Can districts grant across the board raises?

***No. Raises cannot be given to teachers who are not evaluated effective or highly effective after July 1, 2012. Question 3 addresses raises granted prior to July 1, 2012.**

44. Does IDOE have any future PD opportunities planned regarding showcasing current successfully implemented national teacher and administrative incentive pay programs?

The IDOE will be reallocating a significant amount of resources to focus on training and support regarding effectively evaluating teachers and building effective compensation systems. Specific details regarding dates and content are not yet available, but the IDOE will make available a substantial number of both in-person and electronic opportunities to participate in training.

45. Are there any plans to reduce the current state evaluation model to a less cumbersome model?

The state evaluation rubric will be piloted in the fall of 2011. Information from the pilot will be used to further fine tune the model.

46. If I don't have an approved and implemented evaluation tool will I be unable to develop a salary/compensation schedule?

An evaluation tool only needs to be approved by the IDOE if the school corporation wants to for grant funding (for which \$6 million has been allocated in 2011-12 and \$9 million has been allocated in 2012-12). The connection between the evaluation tool and the compensation schedule (i.e. in terms of weighting) will be locally determined.

47. Will the published information simply state the number of teachers in each of the performance categories by school or will it be more specific listing the number of teachers, by department, in each school?

The published information shall be aggregated. Specifically, IC 20-28-11.5 states, “the department shall report the results of staff performance evaluations to the state board, and to the public via the department's Internet web site, for (1) the aggregate of certificated employees of each school and school corporation; and (2) the aggregate of graduates of each teacher preparation program in Indiana.”

The IDOE will follow any guidance issued by the USDOE regarding privacy concerns and will not identify teachers specifically or identify categories of teachers in such a manner that anyone would be able to determine the evaluation category of a specific teacher.

48. Does the performance pay provision in SB 1 override teacher contracts that extend past July 1, 2012? For example, a school corporation recently approved a four-year contract (until July 1, 2015) that spells out how teachers will be evaluated and raises granted ... But the current language in the performance pay section of SB 1 says this: "This subsection takes effect July 1, 2012, or upon the expiration of a contract in existence on July 1, 2011, whichever is earlier, and governs salary increases for a teacher employed by a school corporation on or after the date this subsection takes effect."

See #29.

49. Will IDOE approve all teacher evaluation instruments?

An evaluation tool only needs to be approved by the IDOE if the school corporation wants to for grant funding (for which \$6 million has been allocated in 2011-12 and \$9 million has been allocated in 2012-12). School corporations must, though, submit evaluation plans to IDOE for publication on IDOE's website. Evaluation is also a legal standard for accreditation.

50. When will the performance grant funds be distributed?

Specific details regarding distribution dates are not yet available, but additional information from IDOE, including a detailed timeline, is forthcoming.

51. Is the combination of factors used to determine a salary increase a mandatory subject of collective bargaining?

Yes, subject to the 33% cap on the amount of salary increases that may be attributable to seniority and additional content area degrees or credit hours earned.

52. Is the weight of the factors used to determine a salary increase a mandatory subject of collective bargaining?

Yes.

53. Is it true that corporations are required to have at least 75% of teachers vote to approve the evaluation tool?

The 75% provision applies if a corporation creates its own evaluation tool or modifies one. This provision does not apply if a corporation adopts the state tool, TAP, PAR, or any evaluation plan using master teachers.

54. How do advanced degrees affect performance pay?

A teacher who finishes an advanced degree at any time can earn credit for that degree in his/her raise. The specific weighting of an additional degree in the raise computation is contingent upon what is bargained at the local level, but advanced degrees (along with seniority) can be part of the 33%.

The new legislation also includes a provision that will allow a teacher *currently enrolled* in a master's program to receive a pay increase under his/her district's *current salary schedule* once the degree is completed. Specifically, "compensation attributable to additional degrees for which a teacher has started coursework before July 1, 2011, and completed course work before September 2, 2014, shall also continue."

55. How do we evaluate/pay educators teaching in grades/subjects that are not tested by ISTEP+?

By January 31, 2012, the State Board will adopt rules that establish the "methods for assessing student growth for certificated employees who do not teach in areas measured by statewide assessments." This fall, several school corporations across the state will pilot these methods.

56. Is due process for teachers eliminated?

No. The new legislation does not eliminate due process for teachers – it aligns teacher due process with current principal due process and makes it more focused on teacher performance. Teachers facing dismissal, for a reason other than RIF, are given the right to a private conference with the local superintendent and a private conference with the governing body. Teachers may have representation with them at the conferences.

57. Can I get the evaluation plan approved asap and begin using it in 2011-12?

See #49.

58. When can I get my teacher evaluation plan approved?

See #49 and #50. Guidance regarding the performance grant funds is forthcoming.

59. Do a certain percentage of teachers need to be rated in each of the four categories (i.e. highly effective, effective, improvement necessary, ineffective)? I've heard that 25% of teachers need to be highly effective, 25% effective, etc.

No. There is no required distribution. However, it is important to note that teacher evaluation runs parallel with school accountability. For example, an "A" school that has 100% of its teachers rated highly effective or effective seems plausible. However, an "F" school with the same results is far less credible.

Charter Schools (HEA 1002)

60. How does teacher due process apply to teachers employed by charter schools?

Teachers at charter schools are essentially at-will employees.

61. Does charter school legislation address students who return to a traditional public school after ADM?

Nothing has changed regarding this issue.

62. Can charter schools dismiss a student without granting due process?

No.

63. How is funding calculated when a charter school student returns to a traditional public school after ADM count?

The same way it would be calculated for any student.

Vouchers (HEA 1003)

64. What responsibility does a public school have for special education students placed in non- public schools and is this provision retroactive?

***HEA 1341 requires that the state special education dollars generated by special-needs students attending non-public schools is spent on services for this group of non-public special education students. This provision is effective July 1, 2011.**

Full Day Kindergarten

65. How will the additional dollars for education affect full day kindergarten?

The additional money will complete the current FDK grant by providing enough additional money to cover the 25% of all kindergarten students who do not currently receive funding through the grant. It is important to recognize, however, that Indiana does not require schools to offer FDK programs or require parents to choose FDK for their children.

Schools receive one-half of the per-student funding for each kindergarten student. Then they receive an FDK grant (currently around \$1,030 per FDK student) to help cover the cost of FDK versus half-day kindergarten. For some districts, this is enough to offset the expense. In others, the programs are more expensive. The costs of FDK vary widely district to district.

HEA 1001 does not change the way the FDK grant program currently works. The FDK grant allocation is determined by dividing the total dollars in the fund by the number of FDK students. The new amount per student will depend on both the total additional dollars added to the fund and the number of new FDK students reported to the IDOE.

There will likely be two effects from this increase to the FDK grant:

1. Schools that do not currently offer FDK programs may start them, because they will have the financial boost they need through this grant.
2. All schools that currently receive money through FDK grants may receive slightly more—as the pot of money will be larger.